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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/982,856	10/22/2001	Kailash C. Vasudeva	PAT 51400B-2	7754
26123	7590	09/22/2004	EXAMINER	
BORDEN LADNER GERVAIS LLP WORLD EXCHANGE PLAZA 100 QUEEN STREET SUITE 1100 OTTAWA, ON K1P 1J9 CANADA			TRAN, HANH VAN	
			ART UNIT	PAPER NUMBER
			3637	
DATE MAILED: 09/22/2004				


Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/982,856

Applicant(s)

VASUDEVA, KAILASH C. 

Examiner

Hanh V. Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 2,3 and 9-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4-8 and 14-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. This is the Final Office Action from the examiner in charge of this application in response to applicant's amendment dated 4/23/2004.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Since claim 1 recites just one container unit, the limitation on line 2 of "said container units" lacks antecedent basis, thus indefinite.

Double Patenting

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claim 1 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-9 of U.S. Patent No. 5,887,715. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1-9 of 5,887,715 include all the limitations recited in claim 1 of the instant application.

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Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 1, 4, 6, 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over USP 4,815,795 to Accumanno et al in view of USP 4,892,367 to Jantzen.

Accumanno et al discloses an organizer comprising all the elements recited in the above listed claims including, such as shown in Figs 1-2, a plurality of holders 70, a plurality of container units 116, Figs 3-5, each container unit comprising a housing 118 having opposing side walls and a releasable latching mechanism 156 for engaging the holder to secure the container unit 116 in the holder 70, a plurality of storage slots provided within the container unit for holding articles therein; wherein two said holders connected back to back, each holder releasably engages a plurality of container units. The different being that Accumanno et al fails to disclose the container unit having a plurality of bins mounted between said side walls for rotation

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between closed and open positions, such that in said closed position, outer faces of said bins are generally coplanar, and in said open position, said outer faces each angle outwardly from said housing, thereby providing access into said bins, said bins being connected together for movement in unison, said outer faces occupying substantially all of a front portion of said housing.

Jantzen teaches the idea of providing a container unit comprising a housing having opposing side walls 3, a plurality of pivoting bins mounted between said side walls for rotation between closed and open positions, such that in said closed position, outer faces of said bins are generally coplanar, and in said open position, said outer faces each angle outwardly from said housing, thereby providing access into said bins, said bins being connected together for movement in unison, said outer faces occupying substantially all of a front portion of said housing, such that the pivoting bins provide easy access to articles stored therein. Therefore, it would have been obvious to modify the structure of Accumanno et al by providing the container unit with a plurality of pivoting bins mounted between said side walls for rotation between closed and open positions, such that in said closed position, outer faces of said bins are generally coplanar, and in said open position, said outer faces each angle outwardly from said housing, thereby providing access into said bins, said bins being connected together for movement in unison, said outer faces occupying substantially all of a front portion of said housing, such that the pivoting bins provide easy access to articles stored therein, as taught by Jantzen, since both teach alternate conventional container unit structure, used for the same intended purpose of storing articles, thereby providing structure as claimed.

9. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Accumanno et al, as modified, as applied to claim 1 above, and further in view of USP 6,062,416 to Smillie.

Accumanno et al, as modified, discloses all the elements as discussed above except for said holder providing a common vertical center wall, such that said container unit being securable to either side thereof.

Smillie teaches the idea of a holder housing having a plurality of bins being separated by a common vertical center wall in order to increase versatility of the holder. Therefore, it would have been obvious to modify the structure of Accumanno et al, as modified, by providing the holder with a common vertical center wall in order to increase versatility of the holder, as taught by Smillie, since both teach alternate conventional organizer structure, used for the same intended purpose of storing articles, thereby providing structure as claimed.

10. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Accumanno et al, as modified, as applied to claim 1 above, and further in view of USP 5,758,769 to Vasudeva.

Accumanno et al, as modified, discloses all the elements as discussed above except for the releasable latching mechanism is a set of tabs for releasably engaging a set of slots in the holder, and a catch.

Vasudeva teaches the idea of securing a member to a housing by providing a releasable latching mechanism, said releasable latching mechanism being a set of tabs 13 for releasably engaging a set of slots 14 in the housing, and a catch 15 in order to provide a sturdy, yet quick and easy securement of the member to the housing. Therefore, it would have been obvious to modify the releasable latching mechanism of Accumanno et al, as modified, by providing a set of tabs for releasably engaging a set of slots in the holder, and a catch in order to provide a sturdy,

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yet quick and easy securement of the container unit to the holder, as taught by Vasudeva, since both teach alternate conventional releasable latching mechanism for securing a member to a housing, thereby providing structure as claimed.

11. Claims 1, 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over USP 3,485,543 to Selden et al in view of USP 4,815,795 to Accumanno et al and USP 4,892,367 to Jantzen.

Selden et al discloses an organizer comprising, such as shown in Fig 1, a plurality of holders 13, a container unit 26 including a housing having opposing side walls hingedly connected to one of said holders 13; wherein two said holders are hinged to each other along one side thereof by a hinge 24 and connected side by side, such as shown in Fig 7. The different being that Selden et al does not disclose the container unit having a releasable latching mechanism for engaging the holder 13 to secure the container unit in the holder, and a plurality of bins mounted between said side walls for rotation between closed and open positions, such that in said closed position, outer faces of said bins are generally coplanar, and in said open position, said outer faces each angle outwardly from said housing, thereby providing access into said bins, said bins being connected together for movement in unison, said outer faces occupying substantially all of a front portion of said housing.

Accumanno et al teaches the idea of an organizer having a holder 70, a container unit 116 having a releasable latching mechanism 156 for engaging the holder to secure the container unit in the holder, yet allowing the container unit to be easily portable. Jantzen teaches the idea of providing a container unit comprising a housing having opposing side walls 3, a plurality of pivoting bins mounted between said side walls for rotation between closed and open positions,

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such that in said closed position, outer faces of said bins are generally coplanar, and in said open position, said outer faces each angle outwardly from said housing, thereby providing access into said bins, said bins being connected together for movement in unison, said outer faces occupying substantially all of a front portion of said housing, such that the pivoting bins provide easy access to articles stored therein. Therefore, it would have been obvious to modify the structure of Selden et al by replacing the hinge structure with a releasable latching mechanism for engaging the holder in order to secure the container unit in the holder, yet allowing the container unit to be easily portable, as taught by Accumanno et al, and providing the container unit with a plurality of pivoting bins mounted between said side walls for rotation between closed and open positions, such that in said closed position, outer faces of said bins are generally coplanar, and in said open position, said outer faces each angle outwardly from said housing, thereby providing access into said bins, said bins being connected together for movement in unison, said outer faces occupying substantially all of a front portion of said housing, such that the pivoting bins provide easy access to articles stored therein, as taught by Jantzen, since the references teach alternate conventional container unit structure, used for the same intended purpose of storing articles, thereby providing structure as claimed.

Response to Arguments

12. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Boury, Keffeler, and Meinke all show structures similar to various elements of applicant's disclosure.

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh V. Tran whose telephone number is (703) 308-6302. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (703) 308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HVT *HVT*
September 17, 2004

LANNA MAI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

